

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Lloyd Hinn, Jr.,
Appellant,

v.

Plymouth County Board of Review,
Appellee.

ORDER

Docket No. 13-75-0189
Parcel No. 12-17-376-004

On February 7, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Lloyd Hinn, Jr. of HHB, Inc. Property Tax Consultants appealed on behalf of his client, Le Mars Motel, Inc., and requested a written consideration. County Attorney Darin Raymond represented the Board of Review. The Appeal Board now, having examined the entire record, and being fully advised, finds:

Findings of Fact

Lloyd Hinn, Jr. protested on behalf of Le Mars Motel, Inc., the owner of property located at 1201 Hawkeye Ave SW, Le Mars, Iowa. The real estate was classified commercial on the January 1, 2013, assessment and valued at \$1,051,710, representing \$320,000 in land value and \$731,710 in improvement value. According to the record, the subject is doing business as an economy/limited service Super 8 Motel. It is a three-story building built in 1989 with 25,498 square feet of gross building area and 61 rooms. It has typical hotel accoutrements, such as paved parking area, yard lights, fencing, and signage, as well as an indoor pool and hot tub. The site is 2.40 acres.

Hinn protested the assessment to the Plymouth County Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). He asserted the correct fair market value is \$815,710. The Board of Review denied the protest.

Hinn then appealed to this Board.

The record includes Beacon reports of three properties located in Woodbury, Mahaska, and Muscatine Counties, which appear to be comparable sales submitted by the Plymouth County Assessor. The following chart summarizes these three properties.

Address	County	Year Built	Sale Date	Sale Price
4230 S Lakeport St, Sioux City	Woodbury	1993	Apr-12	\$1,750,000
306 South 17th, Oskaloosa	Mahaska	1985-1993	Jun-12	\$1,050,000
2900 Hwy 61 N, Muscatine	Muscatine	1987	Mar-12	\$1,170,000

All three sales are similar hotel/motel properties and all three sold in normal transactions. However, there is no analysis of the sales, and the Beacon reports provide limited information to determine gross building area (GBA) and room count. While the unadjusted sale prices support the assessment, because the sales were not adjusted for differences, we give this data limited consideration.

The current owners purchased the subject property in May 2010 for \$1,050,000. There is an undated, unsigned letter to the Board of Review, which we assume Hinn authored. The letter asserts the Plymouth County Assessor valued the subject property using the 2010 sale price, but that the sale price included fixture, furniture, and equipment (FF&E). Further, the letter states the FF&E would amount to approximately \$4000 per room or \$236,000, based on 59 rooms. We note the property record card indicates the subject has 61 rooms. There is no evidence or analysis of how the FF&E was determined. Further, the record includes a copy of the Declaration of Value (DOV), signed by the seller, that identifies the sale price of the real property was \$1,050,000. The DOV did not identify any personal property or FF&E in the transaction.

Additionally, in support of his belief that the subject property is over-assessed, Hinn submitted a decision from the State of Nebraska Tax Equalization and Review Commission regarding the 2011

assessment of an 80-room hotel located in Omaha, Nebraska. We do not find the Commission's decision relevant to this appeal and give it no consideration.

Hinn also provided three spreadsheets that provide income and expenses for the subject property for 2010, 2011, and 2012; and an income analysis for each year. Hinn used a 16% loaded capitalization rate for all three years. He also reduced the value by \$236,000 for all three years for FF&E. His value conclusion for 2012 is \$532,037.50, yet he asserts the correct fair market value of the subject property is \$815,710.

Although Hinn appears to rely solely on the income approach to value, he also provided one sale that he obtained through Loop.net, a commercial listing/sales database. This sale is located at 2750 Columbus Street, Ottawa, Illinois, and it sold in June 2012 for \$595,000 or \$21,250 per room. This is a 28-room motel compared to the subject property, which has 61 rooms. Additionally, because the record indicates three other recent hotel/motel sales in Iowa, we question the search parameters Hinn employed to determine this as a comparable sale. The record clearly shows that sales of similar properties located in Iowa were available for analysis. Moreover, there is nothing in the record to indicate the available sales could not be used to readily establish the subject's fair market value.

Finally, the certified record also includes a letter from County Assessor Robert Heyderhoff. Heyderhoff asserts that the single sale provided by Hinn actually supports the assessment. Hinn's sale sold for \$21,250 per room, whereas the subject has an assessment of \$17,241 per room. Heyderhoff is also critical of Hinn's income approach. Heyderhoff asserts Hinn did not adjust the raw figures he provided to determine the market rates; and there is no support for his claim the FF&E per room is \$4000. We agree.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d at 398; *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). “[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method.” *Compiano*, 771 N.W.2d at 398 (emphasis added). “Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding.” *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlson Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997). Before relying on the income approach or other factors, a party or witness must first establish that comparable sales are not available to value the property. *Compiano*, 771 N.W.2d at 397-99; § 441.21(2).

The record includes three recent sales of hotel/motel properties located in Iowa that appear to be similar to the subject and seem to support the subject’s assessment. Conversely, Hinn provided one sale of a motel property located in Illinois but did not adjust the property for differences. Rather, he appears to primarily rely on the income approach to value. While we recognize commercial sale transactions are driven largely by income expectations, the Iowa Legislature and Iowa Supreme Court both indicate that evidence of comparable sales must be addressed before considering the income approach to value or other factors. *Compiano*, 771 N.W.2d at 397-99; § 441.21(2). Hinn’s evidence fails to comply with the statutory scheme for valuing property and does not show the property is assessed for more than authorized by law.

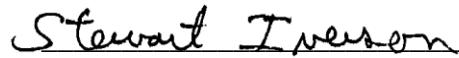
THE APPEAL BOARD ORDERS the 2013 assessment of the property located at 1201

Hawkeye Ave SW, Le Mars, Iowa, is affirmed.

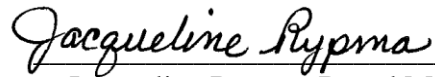
Dated this 5th day of March, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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